



2015

Serial: The Presumption of Guilt

Staff Editors

University of Baltimore School of Law

Follow this and additional works at: <http://scholarworks.law.ubalt.edu/ublr>



Part of the [Criminal Law Commons](#), [Criminal Procedure Commons](#), and the [Evidence Commons](#)

Recommended Citation

Editors, Staff (2015) "Serial: The Presumption of Guilt," *University of Baltimore Law Review*: Vol. 44: Iss. 3, Article 3.
Available at: <http://scholarworks.law.ubalt.edu/ublr/vol44/iss3/3>

This Article is brought to you for free and open access by ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in University of Baltimore Law Review by an authorized administrator of ScholarWorks@University of Baltimore School of Law. For more information, please contact snolan@ubalt.edu.

SERIAL: THE PRESUMPTION OF GUILT

Below is a transcript of a panel discussion with key participants in the defense of Adnan Syed which inspired the popular Serial podcast. The Student Bar Association of the University of Baltimore School of Law hosted the event on February 12, 2015.

DEAN WEICH:

Hello. Good evening, good evening, everybody. My name is Ron Weich and I am the Dean of University of Baltimore School of Law. I'm very pleased to welcome you this evening, to our law school for this fascinating, important, and timely event about the legal saga of Adnan Syed. This event, I'm proud to say, was conceived of and brought to fruition exclusively by our Student Bar Association, whose president, Mike Sellito, is here with me today. His fellow leaders of the SBA are also present. When Mike called me over the holidays and said to me that the Student Bar Association wanted to sponsor an event about *Serial*, I thought he was talking about breakfast food; I had no idea. I have since become one of the 68 million people who have downloaded and listened, somewhat obsessively, to the podcast, *Serial*. I have come to believe that this is a very, very important moment in this country, and this country's critical examination of the criminal justice system. So I very much applaud the Student Bar Association for doing this, and I especially thank Mike for his work and his energy in bringing this to fruition, and I ask you to welcome Mike, our moderator.

MODERATOR:

Thank you Dean Weich. I'm going to introduce our panel for today. In order, everyone has their playbill: we have Justin Graham, Adnan's current attorney. We have Rabia Chaudry. We have Saad Chaudry. We have Doug Colbert. We have Chris Flohr, and we have a late addition: Miss Susan Simpson. Justin if you'll start, if you just introduce yourself, and say what your role is.

JUSTIN BROWN:

Hi, first thank you Mike for having me. I initially committed to come here and then I changed my mind and said I wasn't going to come. Then I received an email from Rabia this morning. She has a way of convincing people to do things. And motivating them. And

she sent me a copy of the flier and my name is on it. I'm like alright Rabia you got me to come. I'm glad to be here. I'm glad I came. I am Adnan's current attorney. I am litigating the appeal of his post-conviction right now. We just were granted leave to appeal to the Court of Special Appeals. So we are obviously very excited about that. And I am probably going to be the most boring panelist that we have tonight because it's an active case for me and there's not a whole lot I can say about it, but nonetheless I'm happy to be here. Thank you for having me.

RABIA CHAUDRY:

Hello. Hi, good evening everybody, my name is Rabia Chaudry, and I am a lawyer, but not Adnan's lawyer. I am a big sister figure, I suppose and an advocate for him.

I took the case to Sarah, and I'm a bit of an agitator, so I've been doing my best to keep it alive in the media even after *Serial*'s over. Adnan was my little brother's best friend, my little brother here, Saad Chaudry.

And my role in all of this really has been to tell Adnan's part of the story. As *Serial* was unfolding, as people were blogging about it, as people are on Reddit and, you know, doing all kinds of things, Adnan had no way to tell his story. So that's been . . . that, and also venting. Venting is good. So I've been venting a lot on twitter so that keeps the interest going as well. So thank you guys for coming, and I look forward to the evening.

SAAD CHAUDRY:

Hello everyone, my name is Saad Chaudry. Adnan is my best friend, I've known Adnan for about twenty years now, and he's been convicted for more than fifteen of those twenty years. And this a great opportunity for us to share his story along with some of the legal experts involved. I appreciate everyone being here and hope you guys enjoy the rest of the show.

DOUG COLBERT:

Hi, my name is Doug Colbert, although the Stephen Colbert pronunciation sounds really good to me. I want to thank Mike and everyone else who put this together. It's a wonderful opportunity to speak and to share a learning experience about our state's criminal justice system and a very real experience about another human being. I want to thank Dean Weich for providing the space at this extremely beautiful law school. So all of us are really very fortunate to be here, particularly the law students. And Rabia just deserves a really special

acknowledgement. None of this really happens if she doesn't take the initiative, if she doesn't decide that she wants the story of Adnan Syed's trial to be told. She believes as many of us do that a serious miscarriage of justice took place here. So thank you, Rabia. And Saad, the last time I saw this guy, I don't know, maybe he was thirteen years old, fifteen years—oh you were seventeen. But he was a much younger guy, you know. Anyhow, [Rabia: He means he looks really old right now]. And of course, I want to thank Sarah Koenig for creating the *Serial* podcast and each of you for being here and making this an event where you are giving the needed attention to this case and Adnan's entire situation. Chris Flohr and I represented Adnan, beginning on Feb 27th of 1999 when the police arrested him. We planned the argument that I made in court and worked together during the first five weeks or so in preparing the two arguments for bail and his release from jail. We'll tell you about that. I'm a law professor at Maryland Law School. I am also someone who was a criminal defense lawyer in New York City at the Legal Aid Society for over 11 years so I feel like I know something about how judges, prosecutors, and defense lawyers are supposed to conduct themselves. And I have been "around the block" a few times in terms of doing my own jury trials. But Chris is the real practicing lawyer and it is a pleasure to pass it over to him. Go ahead Chris.

CHRIS FLOHR:

Hi, I'm Chris Flohr, and I'm really, really privileged to be here. I too want to recognize Rabia. Her energy and her persistence here has been tremendous. Lawyers get tired, and we start to falter. And there's usually a lot of benefit in these kinds of cases to have somebody who just won't give up. And that's how I really would describe Rabia. And Adnan is so fortunate to have her in his life.

And I'm really glad to see so many people out here. I've been practicing criminal defense law for almost twenty-five years now, and there are certain cases that stay with you. This is one of those cases. I didn't think the courts got it right, I didn't think that justice was done. And now, to see, from the hard work that Sarah did, and to see you folks out here, and to see the discussion, I mean, this is really what we aspire to. The legal community is a community, and I think we can get a better result when we have all minds come together. And for those of you that are practicing now, or will practice soon, you will realize that it's a pretty lonely place.

There's not a whole lot of people in most cases in the courtroom. Most people don't know what's going on in an individual case. And this has been amazing to watch the world watch this case, and I really

hope it leads to good results for Adnan, because it's easy to get caught up in the celebrity of this, but there's a real lovely human being, who I had the privilege to be able to represent with Doug, and I'm so glad Justin is in this case now. But he's sitting in a jail cell and it's a real tragedy. Thanks for having us.

SUSAN SIMPSON:

Hi my name is Susan Simpson. I am an attorney in Washington. I focus mostly on white collar crime and corporate compliance, but I also have a blog called the view from LL2. And I started writing about *Serial* after I first heard about it because it was an interesting story and I wanted to hear more about the legal side. Because as great as the podcast was, it didn't always get into the legal details that as lawyers we are curious about. And the more I got into the case the more things just started to seem wrong and it didn't stop. At this point I've stopped being surprised by all the surprising things that happened in this case because there is so much uncertainty here. And so much that has never been uncovered, never been asked about at the time of the trial. And I'm glad finally that it's being looked at. And I want to thank Rabia for having me here tonight, I'm the last one to speak but I'm glad to be here.

MODERATOR:

Ok, so I touched on what it takes to actually get a conviction but before that ever happens in a case there's a bunch of stuff that goes to getting up to that. I was hoping we could start with Chris and Doug and you can describe your involvement and everything that occurs before we even get there.

DOUG COLBERT:

Okay so, I want to turn the clock back to January of 1999. I'm a law professor, I'm teaching an Access to Justice Clinic at Maryland Law School. My students are representing people held on bail who otherwise would be waiting 30 days and longer until their assigned lawyer appeared. Hard to believe in Maryland that until 2 years ago every poor and low income person did not have legal representation in Maryland, except for two counties, Montgomery and Harford counties. And that's the situation in 1999. Chris had just moved down here, he's heading up the Lawyers at Bail project. We had a grant from the Abell Foundation, so he's actually in the criminal courts every day, representing people in jail along with 19 other lawyers whom we hired on a part-time basis.

So I receive a call from someone I know who is living in the Baltimore-Pakistan community, who wants to speak to me. I had been reading in the newspapers, of course, about the tragic killing of Hae Min Lee and how the crime had not been solved and weeks were passing by until February 27th, a Saturday, which is about 6 weeks after the crime occurred on January, 13th of 1999. Chris will tell you more about that part of it. But that's the day that Adnan's arrested and things that took place at the police station. I am asked whether or not I can represent Adnan at his bail hearing, which is going to take place on Monday. Chris, the full-time lawyer in this whole situation, and I agree to go into court and we are preparing as best we can that Sunday. We have 24 hours. People from the community, 15 to 20 people, are already there when we arrive, which is so unusual at a District Court bail hearing to have anyone there much less the support that we did have. I make an argument, which Chris and I thought was certainly a respectable effort filled with the necessary criteria and facts that should have resulted in the judge setting bail. But it is a murder charge, and the district court judge decided not to order bail but instead to remand Adnan without bail. We were hugely disappointed. Adnan had never before been arrested in his life, it was the first and only time he had ever been in the justice system, and he had incredibly strong community support. And for your legal piece of this whole episode, Maryland law entitles most people to be released and to regain their liberty before trial because they are presumed innocent, unless the judge concludes that there is no condition that can ensure the person's return to court and will not be a significant risk of danger to other people, if they are released from jail. So after we presented our argument and the judge, as district court judges are prone to do, took the safe path of deciding not to rule because it's too high profile, Chris and I decided we are going to be filing a writ of habeas corpus. Habeas writs are supposed to be used in an emergency and requires—you are supposed to get back into court right away.

Unfortunately, in Baltimore it took 3-4 weeks before we could get a Circuit Court date. But we're back sometime around March 1st of 1999 in Circuit Court and before a judge. And there are about 60 or 70 people as I recall who were from the Baltimore-Pakistan community, now it could've been more than that. But they were people who are doctors and dentists and lawyers and imams, religious leaders, and just a whole lot of working people from the Baltimore-Pakistan community to show their support for Adnan. And one of the things I want you to take away from this whole thing is that to this day, I absolutely believe that Adnan Syed should have been freed and

had the judge done so, it would've made a huge difference in everything that took place thereafter. As opposed to his spending the next year in jail until the second of his two trials concluded, Adnan would have presented himself as a freed member of the community. But what happened that day is something that I do want to share with you because as law students, as members of the legal and public community, we want to believe that the facts presented and the law determine the outcome—not references and false assertions about a person's nationality, religion or his race that ultimately appeared to play a big part of the court's ultimate decision.

When we made our argument, I indicated there were people in the courtroom willing to put up their homes to guarantee that Adnan would return to court. That was the security, seven different pieces of property that people offered to meet the bond amount. I made that clear to the judge, about the people who came to court to show the kind of strong ties he had within the community. The prosecution agreed that Adnan was not a threat to anyone if released, no safety risk whatsoever. But they based their whole argument and indeed created this argument that he was a flight risk, if released. What the prosecution did was to take the outpouring of support of 60 or 70 people standing with him and saying we are here to make sure, Your Honor, that he returns to court and we are going to accompany him each and every time, and turned that against Adnan. The prosecution did it in a way that transformed the people in the Baltimore-Pakistan community into co-conspirators. The people, said the prosecutor, were not there to ensure that Adnan returned to court, they were there to help him flee the country. Now what happens when a prosecutor brands an entire community as lawbreakers, ready to engage in aiding and abetting someone to flee and to escape? It certainly sent some shockwaves through the audience as people let out an audible gasp while others appeared stunned. I know I was shocked and even more so when the prosecutor made repeated references to the fact that Adnan was a Muslim and from Pakistan. And that began with the prosecutor's first words that you heard some of on *Serial*. I actually listened to the whole tape. I played it back for the first time in many years and it was very hard to listen to the prosecutor saying he's a Muslim and the pretrial representative highlighting he's of another nationality and from a different country with a history of violence. Adnan had been born and lived his whole life here in Baltimore. He identified as strongly as anyone with being a United States citizen and a Baltimorean. But the government's message was, he's not one of us, he's not really from here, Judge, he's a person with foreign ties.

Then the prosecutor referred to the limitless resources that Adnan had available, not just from his Baltimore community and the people who appeared in court, but from outside and from Pakistan itself. So instead of presenting the people who had taken time off from work as hard-working and responsible citizens, who had come to court as representatives of a hardworking, close knit, supportive community of working people, all of a sudden they became the main reason why the judge should not release him from jail. In fact at some point, not long after I had completed my argument, the prosecutor said and these are her exact words, "Your honor if you issue a bail then you are issuing a passport under these circumstances for Adnan Syed to flee the country." If you issue a bail you are issuing a passport to flee the country. That was the prosecutor's argument. And then she went one giant step further to say that we don't need another Sheinbein situation.

Some of you remember that there was a seventeen-year-old defendant who fled to Israel to avoid prosecution for the 1997 brutal murder and dismembering of his victim with a saw and was never returned to be prosecuted in the United States. Sheinbein did leave, he did flee, and that led the prosecutor to compare Adnan and to raise the specter of his fleeing, too. The prosecutor told of other information, an expert on U.S.-Pakistan matters. She gave a name but no affidavit, nothing under oath. It's all coming as hearsay, "I spoke to this expert." She gave his name and said he talked about a pattern, one in which Pakistani men, jilted in a love relationship, committed murder, and fled to Pakistan where they cannot be extradited and returned. And then she cited a specific example from Chicago, and said it's frighteningly similar. And she's saying there was a man, of Pakistani nationality, who, jilted by his girlfriend, killed her and fled. And she's saying this information came from the expert, and that there was no success in the United States getting him back. And the expert added it would be a dim situation if Adnan would flee, too.

I am listening to this taped argument for the first time in fifteen years and hearing why the judge decided he couldn't set a bail. And then the prosecutor described an uncle, Adnan's uncle in Pakistan, who can "make people disappear." So, this information is coming from an officer of the court, from a prosecuting attorney. And the clear message is, if you let this guy out, we will never see him again. He will be like Samuel Sheinbein, and every single one of the people who are here in support are all part of helping him escape.

When the community utters a sound in disbelief, like they could not understand why all this prejudicial stuff was being told, the judge got

very upset. In an angry and brusque voice, he shouted, "I told you. I told you I wasn't gonna take it. And you're all making too much noise." So I tried to speak, I tried to say something. And the judge said, "I won't allow it. I haven't met a lawyer yet who doesn't want the last word." Now, I wanted to question and to reply to all of this information, but there was no opportunity to do that. And so at that moment, I thought it was one of my lowest moments of being a member of the bar. It was one of those shameful episodes where a prosecuting attorney who is sworn to do justice - prosecutors are "ministers of justice" - was using information that could not be challenged because it was coming from some other source outside the courtroom. The judge then said, "I'm not going to make a decision today, I'll make it in a few days." And he left the bench, he adjourned and everybody in court left, too.

I went back to my office with Chris, and we were both so worked up over what we had just heard, that I then made up my mind I am going to try to speak to this "expert" guy. I called and I tracked him down and told him what had just happened. He listened and then said, "Look, I'm not going to make any comment, but I promise you I will call the Assistant State's Attorney." And he did. And after the court rendered its decision of no bail, no bond for Adnan, the prosecutor wrote to the court. She said that she had misconstrued the conversation with the expert. "I misconstrued the expert [who] didn't say there was any pattern of jilted Pakistan men who murdered their girlfriends and fled. Instead, he said there were a number of problematic extradition requests related to Pakistani fugitives charged with serious crimes in the United States." So nothing about a girlfriend, nothing about Pakistani-American men killing their girlfriends, then fleeing the country, and that kind of thing. And there also was no "frighteningly similar" Chicago case. In the prosecutor's letter that she wrote to the judge, she made no reference to a Pakistani male charged with murdering his girlfriend, but only to a Pakistani male charged with murder that had nothing to do with a girlfriend and nothing to do with jilted love, which was the State's theory at that time. And then the prosecutor said, "I apologize to the court for any remarks that may have misled the court."

I want to conclude by saying that the importance of a client gaining freedom and liberty before trial is probably the most important part of what a lawyer can do for anyone accused of a crime. When people are released from jail they help the lawyer find witnesses, they help the lawyer prepare a defense, and they present themselves in a way that jurors and a judge can relate to them as members of a community. When the person stays in jail and everyone on the jury knows the person's in jail, even though nobody says so. Jurors also

know there must a very good reason for why this person's still in jail. There's like this feeling that the person must have done something to require incarceration before trial. In my opinion, and I think Chris shares this strongly, Adnan Syed should have been freed. Had he been freed, jurors would have seen him in a much different light. And I think we would have had a much different outcome.

MODERATOR:

Do you have anything to add, Chris?

CHRIS FLOHR:

I'll just add that I suppose that I should have seen the writing on the wall when I first got involved in the case. As Doug said, I just moved down from New York, I was a Legal Aid lawyer just like he was, in Brooklyn actually. When we got the call that Adnan was arrested, I ran right down to the police station. I remember it was raining, and I was standing outside in the rain. I had buzzed up to be let in. And I said, "I'm Adnan's attorney, I'd like to meet with my client." They said, "He hasn't asked for you yet counsel." And I said "Well that's kind of hard, he doesn't know I exist. His family hired me." And they said, "Well until he asks for you, I don't have to stop questioning him." And unfortunately, Supreme Court precedent says that they're right. That's permissible. That's another thing that as a law student, I didn't appreciate, is that things evolve. Attitudes change. And we try to think of, if our kid was going through the system, is that what we would want?

I mean think back to when you were seventeen. I had just gotten my license. Boston was all the rage, that band, and all I could think about was listening to them and driving my car. That was my world. And occasionally I had to do homework. That's what I was like at seventeen. And to think about this seventeen year old kid, scared out of his mind, never been arrested before, sitting alone, without his parents, without access to his family, without access to a lawyer that's standing outside in the rain. I never got to see him that day. I never got to get in. I concur with what Doug said that I was really disappointed that he didn't get a fair shake. The amount of outpouring from the community was unlike anything I had ever seen. And it really was a shame to see how so many of the cases, nobody shows up. And here, we had a case where busloads, literally, busloads of people outside the district court showing up to support Adnan. And that was turned against him. "Well there's too many people. There's too many folks that support him. Maybe they're gonna do something."

As Doug said, the amount of letters, I saved his file from where I worked on the case, and literally 600 letters is what was submitted from the community. I've never had a case like that before or since. It is hard. It pains me to talk about it because I sit here as I sat when I first got the case and started investigating. I feel Adnan is innocent. Not just didn't get proven guilty. Not just that he didn't get a fair shake. I believe that this is an innocent person.

And to see some of the things that happened. And to quote our own head of the highest court in the judiciary, Mary Ellen Barbera, Chief Judge, gave a statement the other day to the legislature, and she said, "Process counts. Process counts."

Some of you may disagree with me about whether Adnan did this or didn't do this. I welcome that. I think we should all think independently. But I think it's a pretty hard case to defend, overall, from the beginning, from when I stood out in the rain, all throughout the proceeding, and say that he got a fair shake. That process was robbed.

MODERATOR:

Saad and Rabia, would you mind talking about the community support?

SAAD CHAUDRY:

Well Adnan, the way I met him, I met him at the mosque. He lived literally I would say about a half a mile down the street. So he didn't need a car to be there, and he was there very often. He was one of those guys that after Friday prayers, which is kind of like for Christians, that's kind of like church, and you would finally leave to go somewhere, but he would stay there and talk to so many different people. And I would be like, "let's go, let's go." He was a very social person, very outgoing, try to help people around him. And because of this, and because he got arrested, so many people were just shocked.

We don't know anything about his teenage life or what was going on there, but what we do know is that he was a good person, and we just don't believe he could be behind something like this. So they were more they're for character support. They didn't know anything about the case. A lot of them were shocked down the road when they were like, "whoa, you know, he was dating girls," he was doing lots of things like that. But still overall, they were just there to support him. They knew him, they saw him as a young child growing up in the community, and they were really there for support. It was an outpouring. We all thought the more people that showed up would be better. But it backfired on us. There were a bunch of old men

there with big beards, and a lot of women with their head covered, and people just didn't know what that was. It wasn't as popular.

Something that I did, when he did get arrested, I was pretty shocked, myself. My sister and I tried to show as much support as we could. We really didn't know much, so we trusted these guys and whatever information they gave us. And it was just as a matter of fact, I just saw this all playing in front of me.s Sometimes it seemed like this was a movie. You know, I could have made up this story about my girlfriend dying, and this guy is so upset and can't take it anymore. But then I was like, whoa, whoa, whoa, whoa! He's dating like three other girls! But that's a whole 'nother story. Anyway, there was a lot of support for him. All different avenues. They kind of painted it against him, saying that this guy was such a con artist. He had everyone fooled.

RABIA CHAUDRY:

What I will say about the community support, first of all it was literally the first such incident in our community and maybe the last. When I talk about the community, I mean that particular mosque, the congregants were kind of like the core congregants, and that mosque has grown exponentially since 1999. But Adnan literally, and his family, lived down the street and could walk to the mosque, so they were very much part of the core community. And nothing like this had ever happened.

I was in law school, maybe in my first year or second year, I can't remember. I might have been the only person I knew of my generation that I knew who went to law school. Everyone else from our community was in medical school or engineering. In Pakistan, law is where you go when you can't get into anything else. It is really, really odd. And I was pre-med. And when I switched to law, my relatives in Pakistan were like, "Oh my God. What happened to you?" The point is, I was the only one who was connected to any kind of legal information. And I knew nothing. I mean how much do you know in your first year of law school? So, for me, I was going to law school in Virginia, and I was following it from there, just as shocked the day he was arrested and we found out. He was arrested in early hours in the morning, we hadn't heard anything all day, saw it on the news in the evening, and headed over there. It was hard on the community. First of all, obviously, they're—because he was a child who grew up in the community, they're going to support him. We had done an incredible amount of fundraising, and whatever we could do for their family. By the time we got to the trial, what was really complicated for especially the second trial what was really hard

for the kids we grew up with, was this was like during school hours. They couldn't come to the trial. Most of the kids he grew up with, most of the kids he went to school with, the mosque kids, they could not attend the trial. So a lot of them had no idea what exactly was going on. So when you have a trial room full of, on Adnan's end, the aunties and the uncles, as we call them, my parents and other folks like that, who can't even go back and explain exactly what's going on, there was a real gap in information about why he was convicted. And after he was convicted, the community just kind of faded, because they really didn't know what happened. And so many people now, who knew him then, have listened to *Serial*. People living on like the same street and they're like, "Oh, we never knew that's what happened. Because there's also this code of silence – when something ugly happens, no one talks about it. But now there's been an incredible resurgence, there's a lot of support for his family and after all these years, we can finally talk about it. It's been good for them.

MODERATOR:

Rabia, what gave you the idea to first contact Sarah?

RABIA CHAUDRY:

Well I had asked Adnan a number of times over the years to go to media. I don't know if I ever bugged you about it [looking at Justin Brown], but Adnan I did bug a number of times. And with his other attorneys handling it, we decided strategically not to do that. And the reason, ironically, was that we didn't want to taint the Asia evidence by making it public. We knew we had it, it had not been submitted to any court. We thought post-conviction, you know, we're going to go ta-da – we have this alibi witness. So you don't want to go to the media first and have that.

But after the post-conviction hearing, during which Urick said, Asia didn't show up and Urick testified that she contacted him to say that she had made her statements under pressure, I had a real sinking feeling that we were not – like this is the end of the line for this proceeding, and we're not going to win.

And so one night I was watching the third series in the documentary on the West Memphis Three. How many people here knew about the West Memphis Three case? Okay, it's so remarkable because watching from the first documentary to the second, the third, over the span of many years, I realized how I watched the first couple of ones and I was like, "Oh, they're definitely guilty." By the time you watch the third one, you're like, "Wait a minute, no they're not!" You know, so the media and investigative reporters can really

uncover some remarkable things, and how these narratives that are told can shape what you're seeing and what you're not about a case.

And that night, it was like 2:00 a.m., I turned off the TV and I said I'm not asking Adnan anymore, I'm just going to do this. So I started looking for a reporter in Baltimore. And I said I gotta find somebody who reported on the case fifteen years ago, somebody who is deep in the weeds who knows the judges and the lawyers and has snitches in the community. I have maybe this Hollywood image of who I was looking for, but Sarah Koenig was the first name I came across. She had written an article about Gutierrez, specifically.

So I found her. She was a producer on *This American Life*. I was like well, "I've never listened to it, I don't know what this is about. But let me see if she remembers." I reached out to her, and within a week she was down visiting, and she was interested and took some documents, and was hooked ever since. So, it was kind of a "there's nowhere to go but up from here" point at which I was at.

MODERATOR:

So, speaking of nowhere to go, Justin, can you touch on where we can go from here?

JUSTIN BROWN:

Sure. So, right now, I guess the way that I think is easiest to understand it, and I think everyone's more familiar with the process by which someone gets a writ of certiorari to the Supreme Court. You got to apply to the appellate court to get in, even to be able to argue to them. And that's really in many ways that's the biggest challenge. But if someone's going to the Supreme Court and they managed to get their writ granted and they get in and they're arguing in front of the justices, you know they got a pretty good chance. Is it fifty-fifty? Maybe, you know. Sixty-forty, something like that, that's a good chance. Now this is not completely analogous to that, but it's similar because from my experience with post convictions, I think with anyone who practices in that field, it's really hard to get your foot in that door to appeal it. And, you know, Rabia was talking about the sort of despair that I think we all felt when the post-conviction was denied. It didn't turn out how we thought it would. And, but to have our foot back in the door, that means we get to argue. We get to argue our arguments to the court. They're gonna listen. That's their job, they're judges. And you know quite frankly, if after the Court of Special Appeals there's also the Court of Appeals. So there's still a long way to go through the appellate process, and that's what we're focused on right now. You know,

we're hopeful that will yield a positive result. If it doesn't, then there's other avenues that we're gonna go down. And, you know, there's a lot of possible ways we can fight this and as long as we have Rabia cracking the whip behind us, the fight is going to keep going on and on, and we'll keep working it until something shakes loose.

MODERATOR:

Okay, Susan, you can talk about the appeal here.

SUSAN SIMPSON:

I was going to add on to what you're saying about the bail hearing, the letters are the expert they got in to talk about how Adnan was a flight risk of a pattern of behavior. I was looking through intake files recently and you can see how it's all involved, the investigators got the same consulting group they're using for the two person investigation trying to find Hae, and they had them write a memo and it's then filed and you can see someone wrote a little sticky note on top of it and it says, "Here's some fluff with quotes you can use at bail hearing." And I saw that I am just like they knew it was fluff, they made it as fluff, and they knew exactly what they were doing. And you can see it all through their investigation, their files. They centered on Adnan day one, probably before the anonymous call came in, and they had proceedings initiated and they were pursuing him before they had any evidence whatsoever.

DOUG COLBERT:

I just want to say a couple of things. First, for the first month, the officers testified at trial that there were two other suspects they had focused upon. One was the person who found Hae Min Lee's body at Leakin Park, and all of the mysterious ways in which this person somehow knew exactly where she was buried. The officers asked lots of questions before changing their focus to Jay Wilds. He changed his story several times during the police questioning, and he appeared to have very little credibility until he identified Adnan. The other thing I want to say about post-conviction is it's a very encouraging sign that the court granted a full hearing. That doesn't happen without a strong issue being raised and certainly *Serial* has brought attention to a case that otherwise would have just been another person convicted, sentenced to life plus forty years. Imagine if you are Adnan, life plus 40 years, first time he's ever been arrested. Now when you think of excessive sentencing, that's what we're talking about here, and now is an opportunity to give Adnan a fair

shake with a new trial. I sat through most of his first trial; I did not attend much of the second trial.

I do remember the first trial, though. I must have been there for 85-90 percent of the time. On the day when the judge declared a mistrial, I left the courthouse a little bit after 3 o'clock to pick my son up from school. He was eight years old then so I'm going to do my best to be on time - I don't do too well with being on time by the way, but I got there and picked him up, got him home and set up, and then drove back to the courthouse. I must have been gone 45 or 50 minutes. I saw the jurors coming out of the courtroom, and that's not where jurors are supposed to go. They have a separate exit. I said, "What's going on? What are you all doing out here?" They said, "The judge just declared a mistrial." I said, "For what?" They said, "We don't know." And I said, "Well wait a second, before you leave what were you thinking about the case? How were you viewing the evidence?" And I spoke to four or five jurors and each one said words to the effect of, "What case? The government didn't have a case." I said, "How would you have decided?" "He was not guilty. There was no case against him." I said, "Oh my God. Adnan lost the jury that were ready to acquit."

So those are the things that happen during the course of a big trial, and because Justin and Rabia have pursued this, now at least Adnan can get that hearing and hopefully will convince the court to grant that new trial.

MODERATOR:

So, this can be for anyone. What do you think were the major factors you think played into going from a jury that was not going to convict him to a jury that was ultimately did convict him?

RABIA CHAUDRY:

All right, I'll jump right into it. I don't know. Something happened in that month and a half, or however long it was, and I think Christina Gutierrez's health deteriorated. It just went south. She went further south than she might have been before. I say that, but, at the same time, look I know, and I've heard numerous times before, the jury was not buying what the State was selling at the first trial. But I still believe—well, Christina had a very uphill battle before the first trial, and this is something Susan [Simpson]'s identified, right? At how difficult it was to get discovery and how the State was not turning over things. And I hope you talk about that in a minute. She literally didn't get Jay's statement, the police statement, until the day before the trial.

SUSAN SIMPSON:

The day of his testimony.

RABIA CHAUDRY:

The day of his testimony. So she was battling an uphill battle. But at the same time, obviously, we have issues, like she didn't contact an alibi witness. I still have these grievances that I'm always going to carry around with me. But between the second and the third trial, what was actually striking to me was the fact that in a way she kind of had the State's case in front of her. She had a timeline now. She kind of knew where Jay was going with it. Like what time of the day Adnan had to account for, which she might not have had before. But a lot of it I think was just, and you can see this if you read the trial transcripts, is that she—it must have been a cognitive thing. I feel like that when you read it, you can tell that she is kind of struggling. She's struggling to make certain points. She's repeating certain things. She's just not nailing stuff. And I remembered—I wasn't at the first trial, I was at the second trial—and I remember sitting there thinking, "What is going on here?" Like, what she's saying is not even making sense. Her defense lasted like a day. You know, after weeks of prosecution—like I don't know, three, four weeks—her defense lasted a day. So I have never been her colleague. I did not know her personally. My interactions with her were very limited, and they were not positive. But other than her health, I don't [shakes head]. And the second thing is I think, and what I've heard from the first trial to the second trial, was that Jay was much better prepared also. He was much better polished. He even dressed better for the second trial. So it could be the State was also better prepared the second time around. They also might have understood where some of the gaps were in their case. They were very comfortable just moving stuff around, and saying, "Oh, now this is the story, by the way." Maybe you can comment, Susan, on some of the things you discovered about the discovery process.

SUSAN SIMPSON:

Discovery games are part of the process. I'm a litigator, I'm used to it, I see it all the time, and it's what happens for better or for worse. In this case, it was way beyond normal. It was aggressive withholding of evidence at every stage, and when Urick talks about his "open file discovery," it was only "open file" to the extent he made sure his file had nothing in it. He had experts not write things down, he made sure they kept all their reports verbal, he did not test DNA, he would mark it "hold" on a sheet so that it would get lost in

the files, and he would sign when he would move from the “hold” file to the “lab” file so that the results would not be there until he wanted them to be there. So he says “open file,” and yes he did let the defense team come in there and take copies, but I see what the copies are, they weren’t organized in any sort of paired fashion, I do not blame Gutierrez for not understanding the cell phone evidence because there was nothing there that someone could have interpreted on their own without extensive knowledge of how cell phones work. There were missing documents, there were documents that were flat out wrong, by accident or design they just had wrong information, and this happened again and again and again, it was not a one-off thing, it was a consistent pattern of making sure the defense had no idea what was coming, and there was no way they could nail down a timeline, place of death, cause of death even, where she was buried, how she was buried, who buried her, what was done to bury her. The basic details of the case were never presented until the first trial, and that’s when the second stage of this whole process comes about which is Gutierrez’s failings, because she was at a huge disadvantage going into the first trial, she didn’t know anything. Second trial she did know, and reading the transcripts is so frustrating because again and again I have gone through the case file, found something that seems crucially important, like rigor mortis evidence, and then I’ve gone back through the transcripts and I’ve noticed that Gutierrez may have tried to see it and she kept circling around it again and again and she never ever laid the blow. She will see a problem, I think, it’s hard to tell with her transcripts, but she does try and address issues, and it sounds like she going off on some crazy tangent, and once you realize where she might have been going it makes sense, but she never ever comes back and makes the points that need to be made.

MODERATOR:

One more thing, so even though there were all these errors with the case, the prosecution still got a conviction. How much do you think played in the jury knowing their role or do you think they knew their role and understood what they needed to convict somebody and just still didn’t? Do you understand?

CHRIS FLOHR:

That’s a tough question because you really don’t know what the jury’s thinking. But I would like to just stay on Tina, the Gutierrez, issue for just a little bit more. [Moderator: Go ahead]. I want you to know that in part of my hesitancy in speaking to Sarah Koenig in this case was because I held Tina in such a high regard. When I first

moved here from Maryland, she was one of the few attorneys that I had sat down and talked with to see if there space in her firm for me to practice. She was a national force at that time. Tina was an amazing, gifted trial lawyer. I'm glad that we get to talk about her here tonight at the law school because in my class, where I'm an adjunct, I use her story as a cautionary tale. I used to celebrate how hard she worked, and how she wouldn't sleep, and how she snuck files into the hospital when she was sick and so forth. And I really believe it came to be a very important contributor to her demise. She was 52 when she died. I was actually at her funeral. I remember being angry that I thought that there weren't enough of the defense bar out there because she had fought so hard, particularly for women. She was outraged that the NACDL, the National Association of Criminal Defense Lawyers, did not have a representative sample of women in its leadership. So she started a petition to get in on the board. That was the kind of person she was. And that's why, as I sat and looked at the case, just like Rabia mentioned before, that things that people heard afterwards, that even though I was involved in the case, even though I had actually stopped in for a couple days of the trial, there was so much that I didn't know. It's just beyond my ability to comprehend that such a giant in the profession would not speak to an alibi witness. It's just not something that someone who is firing on all 8 cylinders, for those of you who remember the 80s, that that would have happened. Something was wrong. I know that because being a good defense lawyer was Tina's life. I mean it was everything to her. And as she slipped, it was something she must have fought so hard for us not to know. Doug was even closer to her than I was, and she did a really good job, I think, of trying to hide it. And then to see in her end that someone who was such a valiant fighter fought—Judge Quarles in the first trial said she was a pitbull on the pant leg of justice. And that was a pretty good way to describe Tina. But for her to give up her license, she didn't even put up a fight. She said she couldn't defend herself and just consented to disbarment. It was just something so sad, and one of the things that I've held for all these years is that, when we turned the case over to her, Doug and I vouched for Tina. We said this is an excellent trial attorney. I remember sitting with Adnan and telling him as much. And now, I think a fair and objective review of what she actually did and reportedly didn't do, it's time.

DOUG COLBERT:

So there were like two different Tinias. At the first trial, Tina was very good, and as has been pointed out, she got very little help from the Prosecutor. It's common to have discovery issues in most

criminal cases, and civil cases, too. We're talking here about a person who's facing life in prison, someone who's never been in the system before, and the defense lawyer did not get the discovery she was entitled. She complained to me about Mr. Urick and the fact that he was not finding documents that later turned up. So Tina was good at that first trial, she was Tina, she was relentless on cross-examination. Her cross-examination of Jay Wilds that first trial left anyone in that courtroom with the same conclusion, that you would never believe this person. No one should ever be convicted of any crime based on someone who modifies his story as many times as Jay did. So Tina was good at the first trial. Second trial it was a different Tina, and that's something that - I wasn't present at the second trial more than just a few hours. I heard Sarah Koenig taping of Tina in *Serial*, a rambling and unfocused cross-examination. Tina taught people how to cross-examine. Use as few words as possible, three-word questions, four words, two words. She was a very good cross-examiner. When you listen to the way she conducted herself at the second trial, her illness and her emotional state must have caused her to be far, far truly ineffective. She certainly did not resemble the extremely capable, and one of Maryland's finest, criminal defense lawyers - that was not what was presented at the second trial.

MODERATOR:

We're going to keep things moving and we will open it up to audience questions. So, if anyone from the audience has questions, come on down. We have two microphones, one in each aisle.

AUDIENCE:

Dean Ronald Weich—I have a question for Justin. I am involved in the University of Virginia Innocence Clinic. They apparently made a motion for testing of some DNA evidence. What's the relation between your representation of Adnan and their—I assume they also represent—are you co-counsel? What's the status of the relationship?

JUSTIN BROWN:

Well, what we're trying to do is, there is a sequence in which we think that issues are properly raised. Right now we have an appeal that is very much active. So we're focused on that. The DNA motion has not actually been filed yet. What we are planning on doing at this time is to continue with the appeal, see what happens with the appeal, and then we'll go from there.

AUDIENCE:

Hi, I'm Margaret Johnson. I teach here at the University of Baltimore School of Law. Thank you for coming. I was curious about how the story of *Serial* is perceived by your community. In particular . . . a lot talk in the blogs and Reddits and all of that.

SAAD CHAUDRY:

I think the story actually kind of changed a few people's opinions of Muslims because not many people see Muslims as every-day, normal Americans and, playing football, playing track, going to dances, things like that. And most of the depictions that we see on the media [are] usually painting pictures of Muslims as foreigners and not actual Americans. I have friends that say, "Saad, you're a Muslim? I didn't know!" We've just known each other for five plus years. So that's the thing, it kind of bridged the gap where people made us a little bit more relatable. I don't think a lot of people have seen somebody like Rabia wearing a hijab and being able to speak her mind. So that's been great. I think it's given her a voice and a platform to discuss many other injustices or things like this, like the Chapel Hill shootings happen, something like that goes on. I think it gives Rabia a platform to speak up for a lot of those people who don't have a voice. It's not a voice that is pro-Muslim. It's just a voice that is—of all the Muslims that live in the U.S., you barely see any kinds of acts of violence or things like that. What you see on media, which is all usually foreign stuff, and, we're even looking at those pictures and those guys are crazy. That was good. We had a warm reception, and I mean I don't ever really have to answer to anyone even in my family so I've been myself and told the truth and it's always worked out pretty good. And I think a lot of people can relate to that and say he's a normal kid. So that's been good. Rabia?

RABIA CHAUDRY:

First I want to say I'm sure he's made my parents very proud because nobody knows he's a Muslim. I'm so glad they can't watch this tonight. And maybe I understood your question differently. I understood it as how did our, the Muslim community, receive it. The truth is, that all those veils dropped at the trial. So kind of the veils that average American Muslim teenager, or immigrant teenager, or South Asian teenager, or just average teenager, has between them and parents and elders of the community and older siblings and about what they're doing and what they're hiding—all of those things, one by one, as Adnan sat there. And I remember listening to Hae's diary being read, talking about him sleeping around and smoking weed and

just watching the back of his head, and he would have it lowered and just keep scribbling and scribbling. Because behind him was his mother and his little brother and all the aunties and uncles who knew him. So that was the hardest thing I think for us as a community to even bear. It was public humiliation of his private life. But it happened in 2000. So when it was revisited in this case, that aspect of it, that was kind of un-phased to the community. The way the community received, I don't think the community cared too much about how it was portrayed itself. I think the community was shocked at what really happened at Adnan's trial because, like I said, there wasn't a lot of clarity. People who knew him growing up, and I would meet them years later, these kids who knew Adnan, growing up in the same neighborhood. And I would say, "Yeah, I've got his files, his appeals," and they would say, "What's going on." And I would tell them. And they never knew. They never knew who Jay Wilds was, or Mr. S, or all these odd details. So for them, that was just the focus. The community has really rallied again around the family, and, in terms of all the weirdness that has happened, like these people who have emerged and said, "I have this really nefarious information but, if I say it, Rabia will kill me or something." I don't know. I mean they've survived this long, and I haven't gotten to them. I mean you find weirdoes in every community, there's always the person who is like the 411, telling everybody's business, there's always the person who has secrets, there's always—I mean it's just a very normal community, especially when you have what it means to be a community. Where there's a neighborhood association, where there's a church, whatever. So they've been OK, but it's really put a but it's really put a fire under everybody to come back. And honestly, I had a lot of bitterness, I think all of us, and I know Saad did too, that they weren't around all these years. And so now they're coming back, especially after the first couple episodes. And I'm like, "Yeah, yeah, thanks. I don't need your help. We're fine." And then I just kind of had to work through that anger and be like OK we have to forgive and move forward. So, you know, it was fine.

AUDIENCE:

I thank you all for being here. I am a member of the Maryland Bar and Maryland graduate. Professor Colbert I hope you can comment on this and Mr. Flohr as well, if you can comment on the alleged impropriety with the prosecutor in the case arranging for counsel for a material witness in the first trial and maybe both trials and how that reflects on the Maryland Bar and the legal community that that was done and that was something that was maybe something that was

widely practiced or not widely practiced at the time. I'm wondering if you could comment on that. And Mr. Brown, I'm not sure if you can comment on this, and certainly if you can't that's understandable, but if we do have a situation where the petition eventually is granted and a new trial is granted, how do you feel this State would approach this situation? Would they be willing to re-litigate the case or would they be willing to enter into negotiations? I'm wondering if you could comment on that. Thanks.

JUSTIN BROWN:

My answer is going to be really, really brief. I have no idea what the State would do, [laughter] so it's all hypothetical, and we'll just see how things play out.

CHRIS FLOHR:

I'd like to tackle the issue of providing a private attorney for a witness to the prosecution not seeking a public defender to represent this person or a panel attorney as we call the conflict attorneys, but a private attorney. I think Sarah did a really good job with her non-legal background whereas if you're a judge or a lawyer right now your jaw is open and it's true it was just so shocking. And those of that practice criminal defense law, a favorite saying of ours is that our prosecutors wouldn't know *Brady* if it fell on them because we're constantly seeking this information and time and time and time again, how many times are you going to hear about the buried memo, the witness that was encouraged not to come forward, and all these things and I'm not standing, sitting up here trying to say that all prosecutors are wrong. I know many that have really helped to bring about a just result and that's a wonderful thing with the system, even though we're adversarial, that we can do something to bring about justice, but in this case, and I really appreciate the question, to have the lawyer during the trial, I believe it was the second but I'm not sure, ask questions and find out in mid-cross examination oh by the way you were provided a private attorney by the prosecutor, and that's where I go back to process counts. You just can't condone a system where if the star witness gets a private attorney during the case and that's not provided in the material, it's just not excusable it's not something we can condone. And it's not how we want to do this. We understand that many of us who practice criminal defense law will typically represent the guilty, that's true. But we need to be able to hold on to this system, even though we all get, everyone judges, clerks, prosecutors, police officers, all of us start to get a little jaded after a while. It's a hard profession that we've chosen, but we need to hold on to making sure that the process is just rock solid so on that

case where somebody comes in and it's a close call that we can catch it. How do you catch it, how do you make for a just result when behind the defense's back a private lawyer is brought in to represent someone, it's just not, it's just not right.

DOUG COLBERT:

It's just there's a serious appearance of collusion between the State's Attorney's Office and the attorney whom the prosecutor selects to represent really the only witness against Adnan, certainly the only human witness, and it gives an indication that the prosecutor did not want to provide independent counsel who would be able to provide independent advice to Jay [Wilds]. I think there's a reason for that. Mr. Wilds probably had a lot more to say that he might have shared with his hand-chosen attorney rather than one the prosecutor selected. You know, if you pick Professor Warnken to be independent counsel, then you know that Byron [Warnken] is going to be doing everything that's best for the client. It may be consistent with the State's interests or it may not, but at least we can be assured that the client would be getting the advice that an independent lawyer, not connected to the prosecution, would have provided. So I agree with Chris. The process here really lends itself to the substance of what did Jay actually say or do, and I don't expect his lawyer to come forward with that information. But that leaves a lot more unanswered questions about the process of finding Jay a lawyer favorable to the prosecution's theory of the case.

SAAD CHAUDRY:

I actually would like to ask what you guys thought of the judge's response saying that "Jay didn't know any better. Hence we're going go ahead and let that slide."

CHRIS FLOHR:

It's interesting I was reading, for all of those of you that are interested, the pleadings that Justin filed and the response from the State, all up on the Court of Special Appeals website so you can read the orders you can read the pleadings, and so they summarized the facts and in one portion of the transcript, Jay's being cross examined about recognizing that something is fishy, that's the way he described it, something's fishy about the fact that you're having a lawyer provided to you by the prosecutor, so to say that he was unaware of it, I mean I happen to respect Judge Heard quite a bit, I've appeared in front of her many times and I want to say that I hold her in a high

regard, but that's why we have the checks and balances, I want somebody looking over my shoulder. When I go to do what I do a lot's on the line, people can get hurt, people could lose their freedom forever and I want to make sure that there is somebody doing a check on me to make sure that I'm doing the very best that I can, and I practice very much in the community. I talk to this guy all the time about my case theories and so forth and sometimes he says you can't do that in this case that's not the right way to go about it, and I check myself. I encourage you folks who are the young lawyers or lawyers to be, as Mike started this whole thing off, don't practice in a vacuum. Talk to folks, it's much better and it's much more satisfying in practice and you get a better result, you get a better quality of justice and that's what we're striving for.

AUDIENCE:

I'm Amy Dillard I teach here, I teach criminal law. Chris, I especially appreciated what you said to rehabilitate Tina—it's not enough, when I listened to that and I thought no one wants to listen to ourselves at trial, our cross examinations especially [inaudible]. I do wonder though, what happened to that prosecutor, and what's the career that prosecutor had after standing up at that bond hearing and making those misrepresentations and coming back later and saying, "Oh it was a mistake," and all the prosecutors who do that. I feel like the spotlight got put on Tina, and I understand some of the reasons why in terms of the new trial, of course. I hope you can talk a bit about what happens to those prosecutors who turn over discovery at the very last moment.

DOUG COLBERT:

What I tell my students who want to become a prosecutor is I tell them to look at the person in charge of that office. Make sure that person's values fit your own because often you will find yourself in a situation where you are told by a supervising prosecutor to do something that you feel is not appropriate and that is unethical and against the Rules of Professional Conduct. The prosecutor who argued the bail hearing was not the trial prosecutor, but a different person from the office. I don't know whether Adnan's prosecutor believed everything she said or whether she was directed to say what she said, but she and her supervisor must be held responsible for what was argued in court. Ethically, a prosecutor must not say something that is untruthful and wrong. The prosecutor's representations to the judge were so different from what was told to her and painted Adnan as another young man of Pakistan nationality who was a jilted boyfriend, despite what was known at the time and thereafter. Even

when the prosecutor came back and offered an apology, it was not a full apology, far from it. The prosecutor asked forgiveness for what she might have misconstrued. In my mind, what the prosecutor did was actionable in terms of violating her oath as an officer of the court, but I'm not sure if I want to hold her responsible or whether it was part of an approach taken by the prosecution. I do say to all of you who are entering the practice of law, to associate with people who respect and honor our ethical code. We have to wrestle with a lot of difficult situations, but we have a community of lawyers that are only too willing to assist. In this particular case, I found that what the trial prosecutor wrote yesterday in the *Daily Record* to have probably violated more than one of the ethical rules. I think you have to be really careful here to see your role as a lawyer, to see your role as a prosecutor determined to allow the appellate court rule without the trial prosecutor attempting to influence the outcome. And as Chris says, listen to other colleagues and get some advice before you put your name to something or before you act as an officer of the court and do what others want.

MODERATOR:

Thank you.

AUDIENCE:

I have a question for Ms. Chaudry, I have a question about what your thought is about Jay's overall narrative [inaudible] it changed a lot and a lot of what all of us are thinking, what do you think his main motivation was to lie and you know we talked about how [inaudible] so again he was scared in the same way [inaudible] to be scared and I just wanted to know what you thought was his main motivation was so [inaudible]

RABIA CHAUDRY:

I mean I think his main motivation to lie is the reason anybody would, it's to protect yourself from something right, I mean like why do people lie about anything, it's to make sure that you are protecting yourself or somebody you love from some exposure that could be harmful to you. What that means, I don't know. But you know, that is what I have [inaudible] believe, like in all this duration that that must be why he lied and lied and why his story kept changing because there are two ways you can look at it: that he couldn't get his story straight because it was just a story and none of it is true and there are cases in which witnesses get fed details at times and then

create narratives in which—like none of which actually happened, like we know that this has happened in certain cases. Was he the kind of person who could have easily been influenced like that? I don't know. Were there things that were being held over his head? I don't know. Was he being coerced in some way? Maybe, I don't know. I mean those are my only two possible explanations, is that either he was protecting himself or somebody else close to him out of fear. Or he might not have been completely—I don't know—for all we know at this point, he might not have anything to do with any of it. That's like how ridiculous this case is for me.

AUDIENCE:

This question is also for Ms. Chaudry. The train that you have set in motion is such a large one and a [inaudible] that is being [inaudible] through *Serial* is so massive and I think the platform that it will abridge and that it will eventually have will be [inaudible] but was there any point when maybe the episode that week [inaudible] when maybe too much dirty laundry was out there for everyone to see, did you kind of wish that you could pull the brakes [inaudible] including which direction is this going to go and you kind of have that fear.

SAAD CHAUDRY:

Rabia started doing some Google hangout interviews with a professor in Atlanta, Peter [inaudible] and he was actually discussing some of the narrative and he brought over some good points, and he said, "Rabia, the way they painted you, the way Sarah painted you, was you know you were in a small little shopping, little shopping outlet or whatever, little shopping center right in Woodlawn, there was some weed outside, there was an Ethiopian church," but the way he pointed it you was the fact that maybe to minimize her voice or who she was. He was like, "How do feel about the narrative went like the way Sarah painted and how she is creating her story about how she is discovering all this?," and Rabia she said to me like I can't believe they painted me like this, you know I'm working for the government in D.C., I have my safe nation collaborative, and all these other huge policy things that Rabia is doing and she's like but then she's gonna paint me as a small time immigration attorney in this little shopping center that is not really doing much business so it was very interesting. And Rabia said "I'm gonna take back the narrative, I'm gonna give Adnan a voice," and she started blogging. So I think a lot of the times when it was more Sarah's story, if you followed Rabia's involvement, you know she'd kind of bring it back. And there's a lot of things that Sarah did not address, I mean she took

it easy on Jay and Jen and their criminal history, she took it pretty easy. She didn't really air the laundry too much on Christina Gutierrez, I don't think she did, she could have went a lot further. And Rabia waited and she gave Sarah her space until she went and wrote her blog and kind of brought the narrative back. So Adnan, I know he's talked to me plenty of times, along with myself, we're very thankful that Rabia has the power of words to kind of steer us back on the course.

RABIA CHAUDRY:

I think it would have been much more frustrating—so to be honest the first couple of weeks were exhilarating because finally after fifteen or sixteen years the story was being told. And by that, but then maybe by the second or third week, I realized her agenda and my agenda are not the same. She's not out to exonerate him obviously, and then she's also going craft a narrative that's gonna compel people it's gonna be like one week maybe be stuff that makes it look bad and then like the next week, and that was like a sacrifice we had to suck up and take. Every week was stressful, every week was stressful. Wednesday nights were hell for me and I don't know how they were for like his brother, but Wednesday nights I couldn't sleep, and as soon as the podcast was up I would listen to it and Thursdays I literally for that entire stretch was like I can't do any work, like I consult in different places, I was like I don't work on Thursdays anymore until the show [laughter] is over 'cause I couldn't think straight, I couldn't focus I needed all day to think let it marinate and then blog about it, and if I had not had the blog and a way to communicate then it would have been really, really hard. I wonder just from—as she's going forward with *Serial* like in seasons 2, 3, and 4, how she's gonna, like how this would have looked different if I had not ever blogged, number one, and then how she's gonna approach it in future seasons knowing that people want to be in the story right with her, they wanna be investigating, they're Reddit-ing, they're doing all kinds of things. There's not a single outlet that has not covered it, there's independent attorney's investigating it.

How that's going to shape how she—because I'm sure that was a struggle for her too. I'm sure she's like, "Crap that's my—that was my story" [laughter]. It was stressful. I was really looking forward to it being over, and when it was over I was going to go to Canada for the holidays. And I was like, "Oh I'll just relax," and then Jay gave his interview. And I was like, "Nevermind." [laughter]. So, but I'm glad it's over.

MODERATOR:

Do we have any more questions from the audience?

AUDIENCE:

So, I guess I am not one of the law people here, but just from listening to the podcast and everything, I felt, like, how you said, in one of the episodes it seemed kind of more like they shed light on innocence and then kind of steered it a different way. Do you really feel like in any way that the time kind of people, in any way, made the case work? I don't know – I don't know the terms. But, do you think the podcast kind of steered it in kind of the wrong direction, or got altered in any way? That is for anyone.

JUSTIN BROWN:

I'll take a stab at that. You know, there's a different set of rules for being a lawyer versus being a journalist, and I used to be a journalist before I became a lawyer, so I know the two different hats. There was always a sense of anxiety from the perspective of the attorney, because you're thinking, "What if something horrible gets uncovered? What is Sarah Koenig going to do with it?" Having been a journalist, I understand that her obligation—she's going to report it. I think Sarah is a fantastic journalist, and I think she has the highest ethical standards, and she's just amazing. She's a great story teller. I could go on and on. So, absolutely, there was a sense of anxiety, because you never know everything about any case. Any case an attorney has. There's always facts out there lurking in the woods. So I shared, perhaps—I still had to work on Thursdays, but there were certainly some anxious moments there. And when it was all over, I think there was a sense of relief that we're in a place where we want to be.

DOUG COLBERT:

I just want to add that, and it goes back to what Rabia said in the beginning. You know, Adnan had no hope whatsoever of getting out of prison any day soon until Rabia went to Sarah and she produced *Serial*. There are different ways of telling a story, and it depends who's telling the story. Sarah has told the story that has effectively led to each and every one of us taking more of an interest in a person's life who otherwise would have just grown old in prison. He now has a chance to regain his liberty. But the real question, the real challenge, here for each and every one of you, and us, is "What are we going to do next?" If we remain a passive audience, and we just listen and we go, "I don't know what happened." Well, do you know

what “I don’t know” adds up to? Reasonable doubt. That’s what “I don’t know” means. Reasonable doubt is not guilty. I don’t know? You do not convict a person on “I don’t know.” So, the question here is whether each of you are going to start talking to other people about *Serial*, and about Adnan. This is where our democracy really works. It works because if there is an injustice here, as we believe there was, a grave injustice. Adnan is now thirty-three or thirty-four years of age. I mean, you can just imagine what the last 17 years of prison has been for him. Sarah Koenig has opened up an opportunity here for every single person who listens to *Serial*, who reads the blog, who follows the work of attorneys who are creating their own blog: get involved in this. See where you stand on it, and if you feel that there’s been a wrong, then speak up, because Justin can only do so much as an attorney, but we’re members of the same community. You know? And if those of you feel that the verdict was correct, then debate it, discuss it. Find out why a jury convicted him. Identify the evidence that proves guilt beyond a reasonable doubt. And if it’s not there, then tell your own narrative that ends in a life plus forty-year prison sentence that will keep this person remaining in prison for the rest of his adult life.

MODERATOR:

Okay, we are going to do two more questions from the audience and then the closing remarks.

AUDIENCE:

Hi, I’m Darren from the Bloomberg School of Public Health. When I speak to people at Bloomberg, the most common thing I hear are Adnan is manipulative or he is psychopath or why isn’t he more expressive, or proclaiming his innocence. What do you say to people like that? Also, I wish this was covered more in the podcast, but what is Adnan like today and how has prison affected him, or changed him? What does he think about everything that has happened? Maybe Rabia can speak to this?

RABIA CHAUDRY:

Actually, can I? Chris can I ask you to, because Chris reunited with Adnan after many years. Maybe you could share like how he was then and how you saw him now.

CHRIS FLOHR:

Sure. I remember when I listened to the first episode and I heard him speak for the first time in 15 years and I thought, "Gosh, prison has really given him this sort of street tone." Like I know a lot of people who hear him say you know, "He sounds like a gentleman and so forth," but the seventeen-year-old kid who was in this honors program spoke so differently back then and for those of us that do this we know that all day-in, day-out, Adnan is surrounded by people that grew up in a very different environment than he did, speak language in a very different way than he did, and I was taken aback, and I said to Sarah when I talked to her afterwards, "You didn't know this guy back when I knew him, and this has really changed him." And when she described him as having a barrel chest, and I thought, "Barrel chest?!" You see these pictures and so forth, like that's just so foreign for him. And I am pretty sure, that maybe he would have gotten into weight-lifting on his own, you know had he been free, but I'm pretty sure that he is so limited in things to do, and when I actually met with him not too long ago, out in Cumberland, which is a pretty rough place to be in, I just couldn't believe to see the physical change of him. But one of the remarkable things about him, and it speaks to the other question that was posed is, why didn't he, why didn't he be more passionate in his—and why didn't he get more angry? You know, he's sitting in jail for something he says he didn't do. And I think that's always a big think we have to be concerned about, that we look back at cases, over and over again where exonerations have been found out to happen because of DNA or otherwise, that jurors or people that were involved in the case were like, "I wouldn't have reacted that way," but we have to look at it much more critically than that. And I think that's one of the great things about his character, that that hasn't changed. That from the beginning of us meeting this young man, and having the privilege to represent him, that despite all that's happened to him, and you know, you're a hero to a number of us crazy podcast followers. There was one time where he got a little bit angry with Sarah and that was pretty tame when you think about how we might go off on something so trivial at home. So I think that it's a shame to know that this has all been taken away from him. He's never going to get this back. But it is very encouraging to see the hard work of Justin, of Rabia, and of so many people to get to where now we have something.

MODERATOR:

Okay, last question.

AUDIENCE:

Hello, I'm a 1L here at UB School of Law. My question is, and you touched on it a little bit, on the podcast he said he didn't have any hope, he was there. Since his appeal has been granted, has anyone spoken to him, and does he have hope now? Or, does he feel like with the success of *Serial*, it will kind of backfire, like all of the support from the community? Or does he feel like it might help him in the appeal process?

RABIA CHAUDRY:

You know Adnan has always, I mean, first of all, he's been disappointed by the system many, many times. He's been failed by the system many, many times. And I think he's learned to grow cautious over these years in the face of those failures. For the first time, I ever heard him not be upbeat, because even when he was convicted—the day he was convicted he was clearly confused and just kind of shell-shocked that night, but after that, you know, he returned to his normal self, which is a—he's a pretty positive person. The only time in all these years I've seen him be really, really down was when we lost the post-conviction appeal last year, because he had waited a long time, you know, for that and the fact that he's getting another shot at it, and Asia's back in the game, and we know things about the prosecutor that we didn't know then, you know, in terms of how he framed her statements, you know, I think what he heard about it, it's not that he gets a memo right, like he happened to call his mother on the weekends, and she told him that this had happened. We all thought like eight months, a year or something, he didn't believe her. So then Yousef, his brother, got on the phone and said, "No, no it's true, they've granted your leave." And he just started like laughing because he was like astonished and couldn't -- I think like it was incomprehensible to him. So I think for him, he understands that this might be his last best hope, and what he's said to me a couple of times has been, "Listen, there have been other cases in which there's a lot of media attention, and there's a lot of reasonable doubt and that person still doesn't get out of jail. Like it doesn't work out." So, I think he's tempered. And I understand it, like at this point his hopes have been dashed a lot. He's hopeful, but he doesn't have all his hopes riding on it I guess.

MODERATOR:

Okay, we are going to go into closing remarks. Do you want to start, Susan? You don't have to say anything, but we will just go down the line.

SUSAN SIMPSON:

I'll just say that I enjoyed *Serial*, but I think it didn't even start to touch the whole story. I don't know if they felt they couldn't cover it because of liability issues. I don't know if, as non-attorneys, they didn't realize some implications of what they were seeing, but there is a lot more to come. And I hope that all of it is exposed at some point, because the story's not out there. We have no idea where she was killed, how she was killed, when she was killed. We don't know Hae's story, and someone out there has not had justice served on them. And hopefully, one day, we'll actually answer all that.

CHRIS FLOHR:

I was remembering when the OJ trial happened and there was such disdain for the dream team, and all that, and it was such a racial divide in that case. And the fall-out that happened afterwards was, we need to eliminate juries, we need to have non-unanimous juries, and I think that what we all, in the legal profession and those that are interested in justice, have to always remember is, we're one chapter in a long history, and I think it's just amazing to look back, and people, you know, from 200 years ago that said we need to have this burden, we need to keep it on the prosecutor, we need to have this beyond a reasonable doubt, before DNA or any of that stuff came into play. And these are things that we need to hold onto dear, and it's a process, not a product. Jefferson was right when he talked about eternal vigilance. And when you're in the classroom and you're hearing the cases, you can't connect the people with the these cases, it's kind of hard to feel that way. But when you get out there, whatever side you find yourself on, civil, criminal, whatever, just remember these are bedrocks of our country, and we need to hold dear to them. And I hope that forever that stays that way. Thanks.

DOUG COLBERT:

First I want to congratulate each of you. I mean, this has been a terrific audience. I am so used to people walking out, and leaving, and not staying until the end. I mean, just from your body language, you are so engaged in this. Stay engaged. Figure out what your next steps are here, because we really are about justice. And those of you who believe in Adnan's innocence, in the miscarriage of justice, as

we do, figure out the next steps to get more people aware so that their voices can be heard too. For those of you who think that the verdict was correct, ask yourself about the life plus forty years for a seventeen year old, who, even on the prosecution's theory—and I'm not saying for a moment I accept one piece of it—but if this happened the way they said, life plus thirty years? He's already served seventeen years. Is it so much to ask, even for those of you who disagree with us, to be saying it's time that Adnan was free? Whatever happened at trial, I hope with all my might that Justin and Rabia and Saad succeed in this episode. I believe there was a serious, serious miscarriage of convicting somebody who did not commit this crime, and the evidence fails to support. So I just hope that I see many of you in your communities, not making this a one night stand, but really talking about it. I love Professor Warnken, you know? He's so attentive. So bring it to his criminal law and criminal procedure class. [Laughter]. Get the conversation going? Talk about *Brady* and whether prosecutors have a duty to turn over exculpatory evidence. Keep this issue alive because we're talking about a real person here. Thank you.

SAAD CHAUDRY:

Speaking to Adnan, probably like once a week, I can tell you that he's very humbled by the outreach of everyone that's sent him letters and the support he's being shown. I just wanted to thank everybody, I want to thank Sarah and *Serial* for kind of making this an opportunity for all of us to not only learn about Adnan, but also learn about the criminal justice system, and how this could really happen to anyone when you have a lot of silence or a lot of people against you. So, I just wanted to thank you for the opportunity, thank you Mike for setting this up, it's been great.

RABIA CHAUDRY:

I'll start by thanking Mike and thanking the Dean, and thanking the law school for hosting us, and all of you for coming out on a weeknight, this late. To hear this, and to hear like, not just kind of sensationalized, "Oh this is a really cool podcast," but really the legal details of it, which can sometimes not be as exciting to listen to. But, I want to actually, I want to kind of address the issue raised by the manipulative, right. I think if there's one thing that I've been most—that has cause me the most despair over public response to this is that issue. And not because it says something about Adnan, but it says something to me about a society who looks at somebody and says, "Well, I mean everybody has nice things to say about him, so maybe

he's nice. He's been consistent, we don't—there's no proof that he's ever lied. So on the face of it, on the face of it, you have a person who's nice and doesn't lie, and has a clean record before this arrest, and a clean record after. And we can look at a person like that and say that person can only exist if he is evil and manipulative, that a human being cannot actually be like that." That to me, that response, signals some kind of disease in our own society and psyche. And if Adnan was not the kind of person he was, I don't know if I would have been like this dogged about it, it is because I know who he is. Beyond that, I think the only thing I want to close by saying is, this again points to the kind of person Adnan is, he has said a number of times, I mean he spends half of his time first thanking you. Like thank you, thank you, thank you, I don't know how he talks with other people, but he's always like "Oh Rabia, thank you for doing this, thank you for sending me that." And I'm like, "Can we just talk and have a conversation." But, you know, something he's said to me a couple of times is that how blessed he feels, despite his circumstances, despite losing his—not going to college, not graduating from high school, not having a family, not having his twenties, now facing maybe his thirties, he doesn't know how long this will take, but he says that people didn't forget me. He says, "I have a family, I have you, I have people who have not forgotten me," and he has encountered hundreds of people over the last sixteen years who have been forgotten in our prison systems. While Adnan has a team of people working for him, there are people, Innocence Project says maybe up to 20,000 innocent people, but even people who aren't innocent, who have served dozens of years who are alone. He can easily make phone calls every week because a lot of times the phones aren't used, nobody is coming to see these people, and nobody is talking to them. And I think as a society we have to look at our criminal justice system hard, at our industrial prison complex hard. We incarcerate 2 million people in this country, why is this a business? I hope that's another—that's something some of you will carry forward in your work. So I'm just going to close with that, thank you.

JUSTIN BROWN:

So, I get the question all the time, and I'm surprised I didn't get it tonight. But, "do I think that the judges are affected by *Serial* and affected by the popular support for Adnan?" And my answer is always the same, and I'll say it again tonight: no, I don't think so. I'm 100% confident that the judges have and will continue to judge this on the merits. They will judge our legal issues that are in front of the court right now. But, what I will say, is that the popular support,

and all the people who are behind Adnan, it helps us, and it helps me, and it helps everyone at this table. It makes us fight harder; it gives us strength, and we really appreciate it. So, whatever you're doing—it's amazing to see all these people, and to look at what's happening on-line. It does make a difference, and I hope that at some time, that bears some proof. So, thanks very much for having us.

MODERATOR:

How about a round of applause?